

Memo

To: Board of Managers
From: Michael Younes, Director of Municipal Operations *My*
CC: Shana Davis- Cook, Village Manager
Date: 6/9/2011
Re: Memorandum of Understanding with Montgomery County for the purposes of Debris Management

Enclosed please find for the Board's consideration a Memorandum of Understanding (MOU) between Montgomery County and the Village for the purposes of emergency debris management.

Background

Over the past few years the Federal Emergency Management Agency (FEMA) has been working to revise its disaster reimbursement program. As a result, **FEMA now requires that jurisdictions that want to be eligible for disaster reimbursement for debris removal after an emergency must have a FEMA approved debris management plan.** Without an approved debris management plan a jurisdiction would not be eligible for disaster reimbursement from FEMA.

As recently as the blizzards of 2010, FEMA had not required jurisdictions to have a debris management plan to be eligible for reimbursement for the removal and disposal of disaster-related debris. However, beginning in 2011, FEMA requirements have changed.

Over the past couple of years Montgomery County has been working with FEMA to draft and seek approval of the County's debris management plan. Now that FEMA approval has been received, Montgomery County has opened the opportunity to the County's municipalities to enter into an MOU with the County for purposes of debris management in order to satisfy FEMA requirements for debris removal reimbursement.

CHEVY CHASE
VILLAGE
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In order for FEMA to approve a jurisdiction's debris management plan, the plan must address the following areas:

1. Conduct a professional engineering study to estimate the total cubic volume of debris that could be generated by a "Category 2" hurricane (defined as a storm with winds up to 110 miles per hour).
2. Locate and secure temporary dump sites within the jurisdiction for debris removal operations, while ensuring that there are additional dump sites for hazardous materials.
3. Identify debris pick-up routes.
4. Outline how debris from different types of emergencies (i.e., natural or man-made) is handled with respect to hazardous materials, vegetation and structural debris.
5. Outline a process for removing or recycling non-hazardous materials from temporary dump sites once emergency operations have demobilized.

MOU Requirements

The execution of the proposed MOU would give the Village the opportunity to:

1. Maintain its eligibility to receive FEMA disaster reimbursement.
2. Bridge/piggyback existing and future Montgomery County contracts for debris removal and loading monitors. Currently, the County has three (3) contracts with debris haulers and two (2) contracts with loading monitors. All of the contracted companies have national resources available to draw from in an emergency and all have direct experience in debris removal operations during various natural and man-made disasters such as Hurricane Katrina and the 9-11 clean up at the Pentagon and World Trade Center sites. **Execution of the proposed MOU does not require the Village to use County contractors.**
3. Deliver all debris including hazardous materials collected from the Village to the County's temporary dump sites.
4. Utilize County resources for assistance in the event of an emergency.

By executing the MOU the Village would agree to:

1. Monitor debris removal per FEMA standards. These standards outline a monitoring process that requires the jurisdiction to document the actual debris load with specific tickets for inclusion in the jurisdiction's application for federal disaster reimbursement. The load ticket must include the type of debris being picked-up,

location, estimated quantity, truck capacity, dump site and loading monitor's contact information.

2. Pay for the required disposal and ancillary (administrative) fees. Note: FEMA allowable reimbursement rates are 75% for disposal fees and 100% for ancillary (administrative) fees.
3. Provide the County with equipment sizes, inspections and ensure trucks are numbered (which is already on file with the County and in place).
4. Use County load tickets (which is already in place).
5. Provide to Montgomery County maps, street and address listing of the Village.

If the Board chooses not to approve the proposed MOU, the Village would still be able to dump its debris at the Montgomery County transfer station (although not at temporary dump sites).

Required Debris Management Process

As a result of the increase in declared disasters FEMA has created a specific process that must be followed in order to be eligible for reimbursement. FEMA regulations require the removal of debris in the aftermath of an emergency to now be monitored when it is picked up along public property or at a central site within the jurisdiction, and when it is dumped at the temporary removal site(s).

Unless specifically authorized by FEMA, removal of debris from private properties is not reimbursable. Only debris located on public property is eligible for reimbursement, although FEMA does recognize that "policing" residents from dragging debris from private yards onto the public property is virtually impossible.

Recommendation

I recommend Board approval of the proposed MOU as I believe it is in the best interest of the Village. The approval of the MOU will ensure the Village is eligible to receive disaster reimbursement for debris removal costs per FEMA regulations. The MOU would allow (although not obligate) the Village to bridge/piggyback existing County contracts with debris management and loading monitor companies to assist Village Public Works crews with debris removal in the event of an emergency.

Should any Board members have questions regarding the FEMA reimbursement process or questions regarding debris management plan requirements please do not hesitate to contact me directly.

MEMORANDUM OF UNDERSTANDING
BETWEEN MONTGOMERY COUNTY AND
CHEVY CHASE VILLAGE

This Memorandum of Understanding ("MOU") is by and between Montgomery County, Maryland, a body corporate and politic, and a political subdivision of the State of Maryland ("County") and Chevy Chase Village, Maryland, a municipal corporation of the State of Maryland ("Jurisdiction").

RECITALS

1. The County has a Debris Management Plan, approved by the Federal Emergency Management Agency (FEMA) in December 2008, which is part of the County's approved Emergency Operations Plan.
2. The Debris Management Plan includes provisions for the clearing, collection, removal and processing of debris resulting from a significant hazard or disaster occurring in the County.
3. The County wishes to include the Jurisdiction as a party able to use the provisions of the Debris Management Plan for the clearing, collection, removal and processing of debris resulting from a Declaration of Emergency due to a significant disaster or other significant hazard or disaster occurring in the County, and under the terms of this MOU.
4. The Jurisdiction desires to be able to use the provisions of the Debris Management Plan for the clearing, collection, removal and processing of debris collected within the Jurisdiction or designated privately owned area resulting from a significant disaster occurring in the County, upon the County's activation of the Debris Management Plan and under the terms of this MOU.

NOW THEREFORE, in consideration of the terms of this MOU, the parties agree as follows:

1. The recitals are incorporated herein as if fully set forth.
2. Definitions

Ancillary Fees – Ancillary Fees are those costs associated with debris removal that are not covered by specific transportation and disposal charges. They include, but are not limited to, administrative and data management costs, staffing costs for monitors and others directly associated with the debris management operations, supplies, temporary utilities and other justifiable expenses necessary for conducting debris management operations.

County Representative – The County Representative will be the Montgomery County Department of Environmental Protection, Division of Solid Waste Services Division Chief or his designee.

Debris Management - The collection, processing, and recycling or disposal of Items and materials broken, destroyed, or displaced by a natural or man-made significant disaster.

Debris Management Plan – The County's plan, and part of the County's Emergency Operations Plan, for the collection, processing, and recycling or disposal of debris generated by a significant disaster.

Declaration of Emergency – A formal declaration by the Governor of Maryland that a state of emergency exists, making jurisdictions within the State eligible for reimbursement for certain emergency related expenditures.

Eligible Material – Eligible Material refers to material whose management costs are eligible for reimbursement under FEMA guidelines such as debris blocking roads. While Eligible Material generally refers to debris on public roads and along public right-of-ways, under specific circumstances outlined in FEMA policy and regulatory documents, FEMA may also designate material on private roads and property as Eligible Material. In these cases, specific guidance from a FEMA official would be required before materials on private roads or property would be included for management under the Debris Management Plan.

Estimated Disposal Fee – Prior to knowing actual management and disposal costs and the final level of FEMA reimbursement for debris management, the County will set an Estimated Disposal Fee to cover ongoing costs for management of debris which should approximate the actual costs for management of the material. This will be an amount calculated to cover the cost per ton or per cubic yard of processing, recycling or disposal of debris that will be paid at the gate or invoiced to parties bringing material to temporary or permanent debris management facilities.

Facility – A Facility is a building, works, system, equipment, or an improved or maintained natural feature.

Federal Emergency Management Agency (FEMA) – The federal agency which oversees the federal response and financial reimbursement to jurisdictions when a formal declaration of emergency has been issued.

Final Adjusted Fee – The Final Adjusted Fee considers all costs and reimbursement and may result in a rebate to jurisdictions that paid the Estimated Disposal Fee during the clean-up of debris.

Jurisdiction – One of the nineteen (19) legally defined municipalities or two (2) special taxing districts within Montgomery County, Maryland that is managed by a public body or individual and has explicitly defined boundaries.

Jurisdiction Representative – The Jurisdiction Representative is the individual authorized to mobilize resources and make financial commitments on behalf of a jurisdiction relative to debris management.

Jurisdiction's Vehicles and Equipment – Jurisdiction's Vehicles and Equipment includes all types of dump trucks, stake body trucks, demolition trailers, walking floor trailers, front end loaders, cranes, grapples, wood chippers and grinders, and any other equipment used in the collection, management and transportation of debris.

Loading Location – Loading Location refers to the specific street and address or approximate address of where debris is loaded into a vehicle and recorded on a ticket by a Monitor.

Monitors – Monitors are individuals under contract to Montgomery County or participating jurisdictions whose job it is to document the loading and receipt of debris for the purpose of preparing necessary information to obtain FEMA reimbursement for the costs of managing Eligible Material. This term may be used in the singular or plural form.

Permanent Debris Management Site – An existing waste management facility with required federal, State and local permits, routinely operating in accordance with applicable laws and regulations that is part of the County's permanent integrated waste management program.

Monitoring Contract – A contract between Montgomery County and a firm qualified to observe and document the clean-up after an emergency event and prepare all necessary documents for submittal to FEMA for reimbursement of debris management costs.

Temporary Debris Management Site – A Temporary Debris Management Site is any site approved by Montgomery County for the short-term receipt, processing and reloading or transfer of debris to meet the short-term needs for debris storage in response to an emergency.

3. Obligations of the County when this MOU is Signed by a Jurisdiction
 - A. The County agrees that the Jurisdiction will be able to use the provisions of the Debris Management Plan for the clearing, collection, removal and processing of debris collected within the recorded boundaries of the Jurisdiction resulting from a significant hazard or disaster occurring in the County, upon the County's activation of the Debris Management Plan and under the terms of this MOU.
 - B. The County agrees to allow the Jurisdiction to piggyback/bridge the County's contracts with debris management contractors and Monitoring Contract(s), upon the County's activation of the Debris Management Plan and under the terms of this MOU.

- C. The County allows the Jurisdiction to deliver debris or cause debris to be delivered to the Temporary and Permanent Debris Management Sites listed in the Debris Management Plan or any other County-approved site, upon the County's activation of the Debris Management Plan and under the terms of the MOU.
- D. The County contractor's debris management Monitors at the Temporary and Permanent Debris Management Sites will determine the total volume of debris and the amount of debris with sufficient and proper documentation such as completed load tickets to be submitted for debris management cost reimbursement, delivered or caused to be delivered by each Jurisdiction.
- E. Jurisdictions eligible to apply directly to FEMA for reimbursement must do so. The County will not submit reimbursement requests to FEMA on their behalf, if FEMA will accept applications directly from the Jurisdiction. If for some reason the Jurisdiction is not eligible to apply directly to FEMA for reimbursement, the County will reimburse them for any FEMA reimbursement received relative to their Eligible Material.

4. Obligations of the Jurisdiction

The Jurisdiction agrees that in exchange for the preceding commitments of the County and as conditions precedent to the County's commitments, the Jurisdiction will comply with all applicable paragraphs below:

- A. Pay the County an Estimated Disposal Fee* per cubic yard of debris for each cubic yard of debris collected within the recorded boundaries of the Jurisdiction by the Jurisdiction, the Jurisdiction's contractors and County contractors** and delivered to the Temporary and Permanent Debris Management Sites, upon activation of the Debris Management Plan, within thirty (30) days of invoicing by the County. Some portion of this fee may be reimbursed at a later date, depending upon the amount of federal and State reimbursement the County receives.
- B. Pay an Ancillary Fee* per cubic yard of debris for each cubic yard of debris collected within the recorded boundaries of the Jurisdiction by the Jurisdiction, Jurisdiction's contractors and County contractors** and delivered to the Temporary and Permanent Debris Management Sites, the Ancillary Fee will be based on work that County staff or County contractor staff must perform that is not directly related to collecting and disposing or recycling the debris.
- C. Settle with the County on the Final Adjusted Fee which may result in a rebate or an invoice to the Jurisdiction depending upon levels of reimbursement and whether the Estimated Disposal Fee is over- or under-estimated actual costs.

* Estimated Disposal Fees and Ancillary Fees will be established at the time of a Declaration of Emergency and will vary depending upon the severity of the event and the level of outside resources required. Estimated Disposal Fees will be based on the current tipping fees at the Shady Grove Processing Facility and Transfer Station plus any additional per ton costs related to the emergency. Ancillary Fees will be based on actual non-disposal costs related to the emergency proportionally divided among parties delivering debris to County facilities.

**Exclusive of costs associated with debris removed from County, federal and State maintained roads and property within the Jurisdiction which are the responsibilities of the respective parties.

D. Provide, or cause to be provided, properly trained Loading Location Monitors at locations within the recorded boundaries of the Jurisdiction where debris is collected and loaded onto vehicles.

- E. Train or retain Loading Location Monitors to estimate cubic volumes of debris loaded into vehicles, measure the dimensions and estimate the capacity of each vehicle transporting debris to the temporary or permanent debris management sites, and document the type of debris loaded on the load ticket.
- F. Use the County's load tickets or develop a load ticket that includes sufficient criteria listing information to identify vehicles transporting debris, the vehicle's debris carrying capacity, type of debris, date, identification of the Loading Location Monitor, location where the debris was loaded and other relevant information, including a detailed map of the Jurisdiction including street names and boundaries. The load ticket must also indicate whether the vehicle was machine loaded and compacted or hand-loaded (note: hand-loaded vehicles are only eligible for reimbursement for 50 percent of the vehicle capacity).
- G. Assure that all of the Jurisdiction's Vehicles and Equipment and other equipment that the Jurisdiction uses or causes to be used for debris hauling must be in compliance with all applicable federal, State and County rules and requirements.
- H. Assure that all the Jurisdiction's Vehicles and Equipment and other equipment that the Jurisdiction uses or causes to be used for debris hauling must be capable of unloading debris without the assistance of other equipment.
- I. Assure that the Jurisdiction's Vehicles and Equipment and other equipment that the Jurisdiction uses or causes to be used is capable of holding debris to be transported without spillage and able to be filled to capacity.
- J. Assign and affix a number on each side of the equipment in at least three inch high lettering. The lettering must be easy to read in contrast to the color of the equipment where the identification is affixed. There must also be a sign showing the maximum volume, in cubic yards, of the load bed to each piece of equipment assigned to transport debris that is easily visible by Monitors. The Jurisdiction may use the County's records for identification purposes of the vehicles provided that the County has inspected these vehicles and issued the vehicles a County solid waste license.
- K. Assure that the Loading Location Monitors must have the following information for each piece of equipment used to haul debris: Provide the County Representative or his/her designee information about the type of vehicle; make and model; license plate number; equipment number; and maximum measured volume, in cubic yards, of the load bed for each piece of equipment to haul debris. All vehicles used to haul debris will be jointly measured by a Jurisdiction Representative and a county representative before such vehicle or trailer is placed into service.

- L. Assure that all debris is safely secured on each vehicle hauling debris. The Jurisdiction Representative or his/her representative must inspect each load before departure to Temporary and Permanent Debris Management Sites or other approved destinations. Debris must be covered by a tarp or equivalent covering during transport. Debris may not extend beyond the vehicle's bed.
- M. Observe side boards on trucks and trailers so that they do not exceed a height of three (3) feet above the metal truck bed or trailer body.
- N. Prohibit hand loaded trailers unless approved by the County Representative. Approved hand loaded trailers will have their measured volume reduced by 50 percent.
- O. Provide maps to the County and a complete list of streets with the Jurisdiction's recycling and municipal waste disposal collection routes.

5. Terms

This MOU is effective on the date executed below by the County's Chief Administrative Officer. Either party may terminate this MOU upon 60 days written notice to the other party.

(SIGNATURE PAGE TO FOLLOW)

IN WITNESS WHEREOF, the parties have executed this agreement this _____ day of _____ 2011.

SIGNATURES

CHEVY CHASE VILLAGE

MONTGOMERY COUNTY, MARYLAND

Shana Davis-Cook
Village Manager

Timothy L. Firestine
Chief Administrative Officer

Date

Date

Recommendation:

Recommendation:

Michael Younes
Director of Municipal Operations

Robert G. Hoyt, Director
Department of Environmental Protection

Date

Date

APPROVED AS TO FORM AND LEGALITY
BY THE CHEVY CHASE VILLAGE
COUNSEL

APPROVED AS TO FORM AND LEGALITY

David R. Podolsky
Village Legal Counsel

Terrilyn E. Brooks
Associate County Attorney
Office of the County Attorney

Date

Date

JURISDICTION REPRESENTATIVES:
Village Manager
Director of Municipal Operations